

1 Richard R. Barker  
2 Acting United States Attorney  
3 Eastern District of Washington  
4 Benjamin D. Seal  
5 Assistant United States Attorney  
6 402 E. Yakima Avenue, Ste. 210  
7 Yakima, WA 98901-2760  
8 Telephone: (509) 454-4425

FILED IN THE U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

FEB 26 2025

SEAN F. MCAVOY, CLERK  
DEPUTY  
YAKIMA, WASHINGTON

9 UNITED STATES DISTRICT COURT  
10 FOR THE EASTERN DISTRICT OF WASHINGTON

11 UNITED STATES OF AMERICA,

Case No.: 1:24-CR-2064-SAB-1

12 Plaintiff,

Plea Agreement

13  
14 v.

15 JOSE BAUTISTA ANDRADE,

16 Defendant.  
17

18 Plaintiff United States of America, by and through Richard R. Barker,  
19 Acting United States Attorney the Eastern District of Washington, and Benjamin  
20 D. Seal, Assistant United States Attorney for the Eastern District of Washington,  
21 and Defendant JOSE BAUTISTA ANDRADE ("Defendant"), both individually  
22 and by and through Defendant's counsel, Alex B. Hernandez, III, agree to the  
23 following Plea Agreement.

24 1. Guilty Plea and Maximum Statutory Penalties

25 Defendant agrees to enter a plea of guilty to Count 3 of the Indictment filed  
26 on September 19, 2024, which charges Defendant with Possession with Intent to  
27 Distribute 400 grams or more of Fentanyl, in violation of 21 U.S.C. § 841(a)(1),  
28 (b)(1)(A)(vi), a Class A felony.

PLEA AGREEMENT - 1

1 Defendant understands that the following potential penalties apply:

- 2 a. a term of imprisonment of not less than 10 years and up to a  
3 lifetime;  
4 b. a term of supervised release of not less than 5 years and up to a  
5 lifetime;  
6 c. a fine of up to \$10,000,000;  
7 d. a \$100 special penalty assessment; and  
8 e. denial of certain federal benefits pursuant to 21 U.S.C. §§ 862  
9 and 862a.

10 2. Supervised Release

11 Defendant understands that if Defendant violates any condition of  
12 Defendant's supervised release, the Court may revoke Defendant's term of  
13 supervised release, and require Defendant to serve in prison all or part of the term  
14 of supervised release authorized by statute for the offense that resulted in such term  
15 of supervised release without credit for time previously served on postrelease  
16 supervision, up to the following terms:

- 17 a. 5 years in prison if the offense that resulted in the term of  
18 Supervised Release is a class A felony,  
19 b. 3 years in prison if the offense that resulted in the term of  
20 Supervised Release is a class B felony, and/or  
21 c. 2 years in prison if the offense that resulted in the term of  
22 Supervised Release is a class C felony.

23 Accordingly, Defendant understands that if Defendant commits one or more  
24 violations of supervised release, Defendant could serve a total term of  
25 incarceration greater than the maximum sentence authorized by statute for  
26 Defendant's offense or offenses of conviction.  
27  
28

1           3.     The Court is Not a Party to this Plea Agreement

2           The Court is not a party to this Plea Agreement and may accept or reject it.  
3 Defendant acknowledges that no promises of any type have been made to  
4 Defendant with respect to the sentence the Court will impose in this matter.

5           Defendant understands the following:

- 6           a.     sentencing is a matter solely within the discretion of the Court;  
7           b.     the Court is under no obligation to accept any recommendations  
8                 made by the United States or Defendant;  
9           c.     the Court will obtain an independent report and sentencing  
10                recommendation from the United States Probation Office;  
11           d.     the Court may exercise its discretion to impose any sentence it  
12                deems appropriate, up to the statutory maximum penalties;  
13           e.     the Court is required to consider the applicable range set forth  
14                in the United States Sentencing Guidelines, but may depart  
15                upward or downward under certain circumstances; and  
16           f.     the Court may reject recommendations made by the United  
17                States or Defendant, and that will not be a basis for Defendant  
18                to withdraw from this Plea Agreement or Defendant's guilty  
19                plea.

20           4.     Potential Immigration Consequences of Guilty Plea

21           If Defendant is not a citizen of the United States, Defendant understands the  
22 following:

- 23           a.     pleading guilty in this case may have immigration  
24                consequences;  
25           b.     a broad range of federal crimes may result in Defendant's  
26                removal from the United States, including the offense to which  
27                Defendant is pleading guilty;  
28

- c. removal from the United States and other immigration consequences are the subject of separate proceedings; and
- d. no one, including Defendant's attorney or the Court, can predict with absolute certainty the effect of a federal conviction on Defendant's immigration status.

Defendant affirms that Defendant is knowingly, intelligently, and voluntarily pleading guilty as set forth in this Plea Agreement, regardless of any immigration consequences that Defendant's guilty plea may entail.

5. Waiver of Constitutional Rights

Defendant understands that by entering this guilty plea, Defendant is knowingly and voluntarily waiving certain constitutional rights, including the following:

- a. the right to a jury trial;
- b. the right to see, hear and question the witnesses;
- c. the right to remain silent at trial;
- d. the right to testify at trial; and
- e. the right to compel witnesses to testify.

While Defendant is waiving certain constitutional rights, Defendant understands that Defendant retains the right to be assisted by an attorney through the sentencing proceedings in this case and any direct appeal of Defendant's conviction and sentence, and that an attorney will be appointed at no cost if Defendant cannot afford to hire an attorney.

Defendant understands and agrees that any defense motions currently pending before the Court are mooted by this Plea Agreement, and Defendant expressly waives Defendant's right to bring any additional pretrial motions.

6. Denial of Federal Benefits

Defendant understands that by entering this plea of guilty, Defendant may no longer be eligible for assistance under any state program funded under part A of

1 Title IV of the Social Security Act (concerning Temporary Assistance for Needy  
2 Families) or benefits under the food stamp program or any state program carried  
3 out under the Food Stamp Act. 21 U.S.C. § 862a. Defendant also understands that  
4 the Court may deny Defendant's eligibility for any grant, contract, loan,  
5 professional license, or commercial license provided by an agency of the United  
6 States or by appropriated funds of the United States. 21 U.S.C. § 862.

7       7.     Admissibility of Facts and Prior Statements

8       By signing this Plea Agreement, Defendant admits the truth of the facts set  
9 forth in the Factual Basis section of this Plea Agreement and agrees that these  
10 facts, along with any written or oral statements Defendant makes in court, shall be  
11 deemed usable and admissible against Defendant in any subsequent legal  
12 proceeding, including criminal trials and/or sentencing hearings, under Federal  
13 Rule of Evidence 801(d)(2)(A).

14       Defendant acknowledges, admits, and agrees that by signing this Plea  
15 Agreement, Defendant is expressly modifying and waiving Defendant's rights  
16 under Federal Rule of Criminal Procedure 11(f) and Federal Rule of Evidence 410  
17 with regard to any facts Defendant admits and/or any statements Defendant makes  
18 in court.

19       8.     Elements of the Offense

20       The United States and Defendant agree that in order to convict Defendant of  
21 Possession with Intent to Distribute 400 grams or more of Fentanyl, in violation of  
22 21 U.S.C. § 841(a)(1), (b)(1)(A)(vi), the United States would have to prove the  
23 following beyond a reasonable doubt.

- 24           a.     *First*, on or about February 6, 2024, in the Eastern District of  
25                 Washington, Defendant knowingly possessed fentanyl;  
26           b.     *Second*, Defendant possessed it with the intent to distribute it to  
27                 another person; and  
28

1 c. *Third*, the amount of the fentanyl was at least 400 grams of a  
2 mixture or substance containing a detectable amount of  
3 fentanyl.

4 9. Factual Basis and Statement of Facts

5 The United States and Defendant stipulate and agree to the following: the  
6 facts set forth below are accurate; the United States could prove these facts beyond  
7 a reasonable doubt at trial; and these facts constitute an adequate factual basis for  
8 Defendant's guilty plea.

9 The United States and Defendant agree that this statement of facts does not  
10 preclude either party from presenting and arguing, for sentencing purposes,  
11 additional facts that are relevant to the Sentencing Guidelines computation or  
12 sentencing.

13 On February 6, 2024, law enforcement agents executed search warrants at  
14 Defendant's residence and storage unit located in Yakima County, Washington.  
15 Defendant was the only person living in the residence. In Defendant's master  
16 bedroom closet, agents found approximately 2.2 kilograms of fentanyl pills. They  
17 also found <sup>in residence + storage unit ABX JBA</sup> approximately 84 pounds of methamphetamine <sup>total ABX JBA BBS</sup> and four firearms.

18 Defendant knew that the substance in his closet was fentanyl, and he  
19 knowingly possessed the fentanyl with the intent to distribute it to another person.

20 10. The United States' Agreements

21 The United States Attorney's Office for the Eastern District of Washington  
22 agrees that at the time of sentencing, the United States will move to dismiss Counts  
23 1, 2, and 4 of the Indictment filed on September 19, 2024.

24 The United States Attorney's Office for the Eastern District of Washington  
25 agrees not to bring additional charges against Defendant based on information in  
26 its possession at the time of this Plea Agreement that arise from conduct that is  
27 either charged in the Indictment or identified in discovery produced in this case,  
28 unless Defendant breaches this Plea Agreement before sentencing.

11. United States Sentencing Guidelines Calculations

Defendant understands and acknowledges that the United States Sentencing Guidelines (“U.S.S.G.” or “Guidelines”) apply and that the Court will determine Defendant’s advisory range at the time of sentencing, pursuant to the Guidelines. The United States and Defendant agree to the following Guidelines calculations.

a. Base Offense Level

The United States and the Defendant agree that the base offense level in this case is 38.

b. Special Offense Characteristics

The United States and the Defendant agree that Defendant’s base offense level is increased by 2 levels because Defendant possessed a firearm.

c. Acceptance of Responsibility

The United States will recommend that Defendant receive a downward adjustment for acceptance of responsibility, pursuant to U.S.S.G. § 3E1.1(a), (b), if Defendant does the following:

- i. accepts this Plea Agreement;
- ii. enters a guilty plea at the first Court hearing that takes place after the United States offers this Plea Agreement;
- iii. demonstrates recognition and affirmative acceptance of Defendant’s personal responsibility for Defendant’s criminal conduct;
- iv. provides complete and accurate information during the sentencing process; and
- v. does not commit any obstructive conduct.

The United States and Defendant agree that at its option and on written notice to Defendant, the United States may elect not to recommend a reduction for acceptance of responsibility if, prior to the imposition of sentence, Defendant is charged with, or convicted of, any criminal offense, or if Defendant tests positive

1 for any controlled substance.

2 d. Agreements Regarding Representations to the Court

3 The United States has a duty of candor to the tribunal. If the United States  
4 and Defendant do not agree on the appropriate length of incarceration, the  
5 appropriate length or applicable terms of supervised release, and/or the correct  
6 guidelines calculations, variances, departures, and/or enhancements, the United  
7 States reserves the right to respond to any and all arguments made by Defendant,  
8 on any bases the United States deems appropriate, at all stages of this criminal  
9 case.

10 Defendant may make any arguments it deems appropriate, at all stages of  
11 this criminal case.

12 With regard to all briefing, submissions, and hearings in this criminal case,  
13 the United States and Defendant agree to the following provisions:

- 14 i. The United States and Defendant may each respond to  
15 any questions from the Court or United States Probation  
16 Office;
- 17 ii. The United States and Defendant may each supplement  
18 the facts under consideration by the Court by providing  
19 information the United States or Defendant deems  
20 relevant;
- 21 iii. The United States and Defendant may each present and  
22 argue any additional facts that the United States or  
23 Defendant believe are relevant to the Sentencing  
24 Guidelines computation or sentencing;
- 25 iv. The United States and Defendant may each present and  
26 argue information that may already be known to the  
27 Court, including information contained in the  
28 Presentence Investigation Report;

- 1           v.       The United States and Defendant may each respond to  
2                   any arguments presented by the other;
- 3           vi.       In order to support the United States' sentencing  
4                   recommendation as set forth herein, the United States  
5                   may oppose and argue against any defense argument or  
6                   any recommendation for any sentence lower than the  
7                   sentence recommended by the United States on any basis,  
8                   including arguments for a lower offense level, a lower  
9                   criminal history calculation, the application or non-  
10                  application of any sentencing enhancement or departure,  
11                  and/or any variance from the Guidelines range as  
12                  calculated by the Court;
- 13          vii.       In order to support the defense sentencing  
14                   recommendation as set forth herein, Defendant may  
15                   oppose and argue against any argument by the United  
16                   States, or any recommendation for any sentence higher  
17                   than the sentence recommended by the defense on any  
18                   basis, including arguments for a higher offense level, a  
19                   higher criminal history calculation, the application or  
20                   non-application of any sentencing enhancement or  
21                   departure, and/or any variance from the Guidelines range  
22                   as calculated by the Court;
- 23          viii.       The United States may make any sentencing arguments  
24                   the United States deems appropriate so long as they are  
25                   consistent with this Plea Agreement, including arguments  
26                   arising from Defendant's uncharged conduct, conduct set  
27                   forth in charges that will be dismissed pursuant to this  
28                   Plea Agreement, and Defendant's relevant conduct; and

ix. Defendant may make any sentencing arguments consistent with this Plea Agreement Defendant deems appropriate.

e. No Other Agreements

The United States and Defendant have no other agreements regarding the Guidelines or the application of any Guidelines enhancements, departures, or variances.

f. Criminal History

The United States and Defendant have no agreement and make no representations about Defendant's criminal history category, which will be determined by the Court after the United States Probation Office prepares and discloses a Presentence Investigative Report.

12. Incarceration

At the time of Defendant's original sentencing in the District Court, the United States agrees to make a sentencing recommendation to the Court that is consistent with this Plea Agreement. The United States' agreement to make such a recommendation is limited exclusively to the time of Defendant's original sentencing in the District Court. The United States' agreement to make such a recommendation does not prohibit or limit in any way the United States' ability to argue for or against any future sentencing modification that takes place after Defendant's original sentencing in the District Court, whether that modification consists of an amendment to the Guidelines, a change to a statutory minimum or maximum sentence, any form of compassionate release, any violation of Supervised Release, or any other modification that is known or unknown to the parties at the time of Defendant's original criminal sentencing. In this Plea Agreement, the United States makes no promises or representations about what positions the United States will take or recommendations the United States will

1 make in any proceeding that occurs after Defendant's original sentencing in the  
2 District Court.

3 The United States agrees to recommend a sentence of 168 months.

4 Defendant may recommend any legal sentence.

5 13. Supervised Release

6 The United States and Defendant each agree to recommend 5 years of  
7 supervised release. Defendant agrees that the Court's decision regarding the  
8 conditions of Defendant's Supervised Release is final and non-appealable; that is,  
9 even if Defendant is unhappy with the conditions of Supervised Release ordered by  
10 the Court, that will not be a basis for Defendant to withdraw Defendant's guilty  
11 plea, withdraw from this Plea Agreement, or appeal Defendant's conviction,  
12 sentence, or any term of Supervised Release.

13 The United States and Defendant agree to recommend that in addition to the  
14 standard conditions of supervised release imposed in all cases in this District, the  
15 Court should also impose the following conditions:

- 16 a. The United States Probation Officer may conduct, upon  
17 reasonable suspicion, and with or without notice, a search of  
18 Defendant's person, residences, offices, vehicles, belongings,  
19 and areas under Defendant's exclusive or joint control.
- 20 b. Defendant shall participate and complete such drug testing and  
21 drug treatment programs as the Probation Officer directs.
- 22 c. Defendant shall complete mental health evaluations and  
23 treatment, including taking medications prescribed by the  
24 treatment provider. Defendant shall allow reciprocal release of  
25 information between the Probation Officer and the treatment  
26 provider. Defendant shall contribute to the cost of treatment  
27 according to the Defendant's ability.
- 28

14. Criminal Fine

The United States and Defendant may make any recommendation concerning the imposition of a criminal fine. Defendant acknowledges that the Court's decision regarding a fine is final and non-appealable; that is, even if Defendant is unhappy with a fine ordered by the Court, that will not be a basis for Defendant to withdraw Defendant's guilty plea, withdraw from this Plea Agreement, or appeal Defendant's conviction, sentence, or fine.

15. Judicial Forfeiture

Defendant agrees to voluntarily forfeit and relinquish all right, title and interest he has in the following listed assets to the United States:

- a Springfield Model XP-1 .45 caliber bearing serial number AT196246;
- a Springfield Model XP-9 9mm bearing serial number XS919470;
- a Springfield Model XP .45 caliber bearing MG579976; and,
- a Taurus Model PT 24/7 .40 caliber with an obliterated serial number.

Defendant acknowledges that the firearms listed above are subject to forfeiture to the United States pursuant to 21 U.S.C. § 853, as property used or intended to be used to commit or facilitate the offense Possession with Intent to Distribute 400 grams or more of Fentanyl, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A)(vi), (Count 3), to which Defendant is pleading guilty.

Defendant agrees to take all steps as requested by the United States to pass clear title to the assets to the United States and to testify truthfully in any forfeiture proceeding. Defendant agrees to hold all law enforcement agents and the United States, its agents, and its employees harmless from any claims whatsoever arising in connection with the seizure, abandonment, or forfeiture of any asset covered by this agreement.

Defendant further agrees to waive all constitutional and statutory challenges in any manner (including direct appeal, habeas corpus, or any other means) to any

1 forfeiture carried out in accordance with this Plea Agreement on any grounds,  
2 including that the forfeiture constitutes an excessive fine or punishment. Defendant  
3 knowingly and voluntarily waives his right to a jury trial on the forfeiture of the  
4 asset(s). Defendant waives oral pronouncement of forfeiture at the time of  
5 sentencing, and any defects that may pertain to the forfeiture.

6 Defendant waives further notice of any federal, state or local proceedings  
7 involving the forfeiture of the seized assets the Defendant is agreeing to forfeit in  
8 this Plea Agreement.

9 16. Mandatory Special Penalty Assessment

10 Defendant agrees to pay the \$100 mandatory special penalty assessment to  
11 the Clerk of Court for the Eastern District of Washington, pursuant to 18 U.S.C.  
12 § 3013.

13 17. Payments While Incarcerated

14 If Defendant lacks the financial resources to pay the monetary obligations  
15 imposed by the Court, Defendant agrees to earn money toward these obligations by  
16 participating in the Bureau of Prisons' Inmate Financial Responsibility Program.

17 18. Additional Violations of Law Can Void Plea Agreement

18 The United States and Defendant agree that the United States may, at its  
19 option and upon written notice to the Defendant, withdraw from this Plea  
20 Agreement or modify its sentencing recommendation if, prior to the imposition of  
21 sentence, Defendant is charged with or convicted of any criminal offense or tests  
22 positive for any controlled substance.

23 19. Waiver of Appeal Rights

24 Defendant understands that Defendant has a limited right to appeal or  
25 challenge Defendant's conviction and the sentence imposed by the Court.

26 In return for the concessions that the United States has made in this Plea  
27 Agreement, Defendant expressly waives all of Defendant's rights to appeal any  
28

1 aspect of Defendant's conviction and/or the sentence the Court imposes, on any  
2 grounds.

3 Defendant expressly waives Defendant's right to appeal any fine, term of  
4 supervised release, or restitution order imposed by the Court.

5 Defendant expressly waives the right to file any post-conviction motion  
6 attacking Defendant's conviction and sentence, including a motion pursuant to 28  
7 U.S.C. § 2255, except one based on ineffective assistance of counsel arising from  
8 information not now known by Defendant and which, in the exercise of due  
9 diligence, Defendant could not know by the time the Court imposes sentence.

10 Nothing in this Plea Agreement shall preclude the United States from  
11 opposing any post-conviction motion for a reduction of sentence or other attack  
12 upon the conviction or sentence, including, but not limited to, writ of habeas  
13 corpus proceedings brought pursuant to 28 U.S.C. § 2255.

14 20. Withdrawal or Vacatur of Defendant's Plea

15 Should Defendant successfully move to withdraw from this Plea Agreement  
16 or should Defendant's conviction be set aside, vacated, reversed, or dismissed  
17 under any circumstance, then:

- 18 a. Any obligations, commitments, or representations made by the  
19 United States in this Plea Agreement shall become null and  
20 void;
- 21 b. The United States may prosecute Defendant on all available  
22 charges;
- 23 c. The United States may reinstate any counts that have been  
24 dismissed, have been superseded by the filing of another  
25 charging instrument, or were not charged because of this Plea  
26 Agreement; and
- 27 d. The United States may file any new charges that would  
28 otherwise be barred by this Plea Agreement.

1 The decision to pursue any or all of these options is solely in the discretion  
2 of the United States Attorney's Office.

3 Defendant agrees to waive any objections, motions, and/or defenses  
4 Defendant might have to the United States' decisions to seek, reinstate, or reinitiate  
5 charges if a count of conviction is withdrawn, set aside, vacated, reversed, or  
6 dismissed, including any claim alleging a violation of Double Jeopardy.

7 Defendant agrees not to raise any objections based on the passage of time,  
8 including but not limited to alleged violations of any statutes of limitation or any  
9 objections based on the Speedy Trial Act or the Speedy Trial Clause of the Sixth  
10 Amendment.

11 21. Integration Clause

12 The United States and Defendant acknowledge that this document  
13 constitutes the entire Plea Agreement between the United States and Defendant,  
14 and no other promises, agreements, or conditions exist between the United States  
15 and Defendant concerning the resolution of the case.

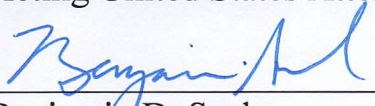
16 This Plea Agreement is binding only on the United States Attorney's Office  
17 for the Eastern District of Washington, and cannot bind other federal, state, or local  
18 authorities.

19 The United States and Defendant agree that this Agreement cannot be  
20 modified except in a writing that is signed by the United States and Defendant.

21 Approvals and Signatures

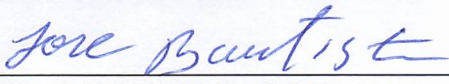
22 Agreed and submitted on behalf of the United States Attorney's Office for  
23 the Eastern District of Washington.

24 Richard R. Barker  
25 Acting United States Attorney

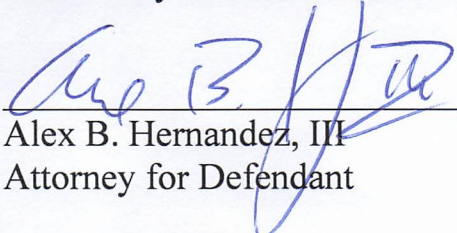
26   
27 Benjamin D. Seal  
28 Assistant United States Attorney

2-26-25  
\_\_\_\_\_  
Date

1 I have read this Plea Agreement and I have carefully reviewed and discussed  
2 every part of this Plea Agreement with my attorney. I understand the terms of this  
3 Plea Agreement. I enter into this Plea Agreement knowingly, intelligently, and  
4 voluntarily. I have consulted with my attorney about my rights, I understand those  
5 rights, and I am satisfied with the representation of my attorney in this case. No  
6 other promises or inducements have been made to me, other than those contained  
7 in this Plea Agreement. No one has threatened or forced me in any way to enter  
8 into this Plea Agreement. I agree to plead guilty because I am guilty.

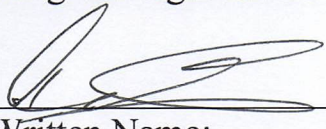
9  2-25-25  
10 JOSE BAUTISTA ANDRADE Date  
11 Defendant

12 I have read the Plea Agreement and have discussed the contents of the  
13 agreement with my client. The Plea Agreement accurately and completely sets  
14 forth the entirety of the agreement between the parties. I concur in my client's  
15 decision to plead guilty as set forth in the Plea Agreement. There is no legal  
16 reason why the Court should not accept Defendant's guilty plea.

17  2-25-25  
18 Alex B. Hernandez, III Date  
19 Attorney for Defendant  
20

21 Interpreter Certification

22 I hereby certify that I have read and translated the entire foregoing document  
23 to Defendant in a language with which Defendant is conversant. If questions have  
24 arisen, I have notified Defendant's counsel of the questions and have not offered  
25 nor given legal advice nor personal opinions.

26  I. Javiera Gutierrez 2-25-25  
27 Written Name: Date  
28 Interpreter